**IN THE UNITED STATES DISTRICT COURT**
**FOR THE EASTERN DISTRICT OF TEXAS**
**MARSHALL DIVISION**

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| **BENEFICIAL INNOVATIONS, INC.,** | § | |
| | § | |
| **Plaintiff,** | § | |
| | § | |
| **v.** | § | **2:07-CV-263 (TJW/CE)** |
| | § | |
| **BLOCKDOT, INC., CAREERBUILDER, LLC, CNET NETWORKS, INC., DIGG, INC., EBAUM'S WORLD, INC., JABEZ NETWORKS, INC., THE NEW YORK TIMES COMPANY, WASHINGTONPOST.NEWSWEEK INTERACTIVE COMPANY, LLC, and THE WEATHER CHANNEL INTERACTIVE, INC.,** | § | |
| | § | |
| **Defendants.** | § | |

**DEFENDANT THE WEATHER CHANNEL INTERACTIVE, INC.'S**
**ANSWER TO THE SECOND AMENDED COMPLAINT**

Defendant The Weather Channel Interactive, Inc. ("The Weather Channel") hereby answers the numbered paragraphs of the Second Amended Complaint For Patent Infringement filed by plaintiff Beneficial Innovations, Inc. ("Beneficial") as follows:

## INTRODUCTION

1. The Weather Channel admits that United States Patent No. 6,712,702 ("the '702 Patent") is entitled "Method and System for Playing Games on a Network," and that United States Patent No. 6,183,366 ("the '366 Patent") is entitled "Network Gaming System." The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegation of ownership of either the '702 Patent or the '366 Patent and, therefore,

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denies such allegations. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations as to the other named defendants and, therefore, denies such allegations. Otherwise denied.

**JURISDICTION AND VENUE**

2. Admitted.

3. Admitted that venue is proper in this district. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations as to the other named defendants and, therefore, denies such allegations. Otherwise denied.

**PLAINTIFF BENEFICIAL INNOVATIONS**

4. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations contained in paragraph 4 of its Complaint and, therefore, denies such allegations.

**DEFENDANTS**

5. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations contained in paragraph 5 of its Complaint and, therefore, denies such allegations.

6. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations contained in paragraph 6 of its Complaint and, therefore, denies such allegations.

7. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations contained in paragraph 7 of its Complaint and, therefore, denies such allegations.

8. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations contained in paragraph 8 of its Complaint and, therefore, denies such allegations.

9. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations contained in paragraph 9 of its Complaint and, therefore, denies such allegations.

10. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations contained in paragraph 10 of its Complaint and, therefore, denies such allegations.

11. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations contained in paragraph 11 of its Complaint and, therefore, denies such allegations.

12. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations contained in paragraph 12 of its Complaint and, therefore, denies such allegations.

13. Admitted.

**FIRST CLAIM FOR PATENT INFRINGEMENT**
**(ALLEGED INFRINGEMENT OF THE '702 PATENT)**

14. The Weather Channel incorporates by reference each of its responses to paragraphs 1-13 above.

15. The Weather Channel admits that the '702 Patent issued on March 30, 2004, but denies any implication that the '702 Patent is valid. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations concerning assignment or ownership of rights in the '702 Patent and, therefore, denies such allegations.

16. Denied in all respects as to The Weather Channel. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations contained in paragraph 16 of its Complaint as to the other defendants and, therefore, denies such allegations.

17. Denied in all respects as to The Weather Channel. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations contained in paragraph 17 of its Complaint as to the other defendants and, therefore, denies such allegations.

18. Denied in all respects as to The Weather Channel. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations contained in paragraph 18 of its Complaint as to the other defendants and, therefore, denies such allegations.

19. Denied in all respects as to The Weather Channel. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations contained in paragraph 19 of its Complaint as to the other defendants and, therefore, denies such allegations.

20. Admitted that plaintiff demands trial by jury of all issues relating to this claim.

**SECOND CLAIM FOR PATENT INFRINGEMENT**
**(ALLEGED INFRINGEMENT OF THE '366 PATENT)**

21. The Weather Channel incorporates by reference each of its responses to paragraphs 1-20 above.

22. The Weather Channel admits that the '366 Patent issued on February 6, 2001, but denies any implication that the '366 Patent is valid. The Weather Channel is without sufficient

knowledge or information to form a belief as to the truth of Beneficial's allegations concerning assignment or ownership of rights in the '366 Patent and, therefore, denies such allegations.

23. Denied in all respects as to The Weather Channel. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations contained in paragraph 23 of its Complaint as to the other defendants and, therefore, denies such allegations.

24. Denied in all respects as to The Weather Channel. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations contained in paragraph 24 of its Complaint as to the other defendants and, therefore, denies such allegations.

25. Denied in all respects as to The Weather Channel. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations contained in paragraph 25 of its Complaint as to the other defendants and, therefore, denies such allegations.

26. Denied in all respects as to The Weather Channel. The Weather Channel is without sufficient knowledge or information to form a belief as to the truth of Beneficial's allegations contained in paragraph 26 of its Complaint as to the other defendants and, therefore, denies such allegations.

27. Admitted that plaintiff demands trial by jury of all issues relating to this claim.

## BENEFICIAL'S PRAYER FOR RELIEF

28. The Weather Channel denies that Beneficial is entitled to any of the relief requested in its prayer for relief or any relief whatsoever.

## AFFIRMATIVE DEFENSES

The Weather Channel, without waiver, limitation, or prejudice, further answers Beneficial's Complaint by asserting the following affirmative defenses:

29. The Weather Channel has not infringed, and is not infringing, (either directly, contributorily, or by inducement) any asserted claim of the '702 or '366 Patents either literally or under the doctrine of equivalents.

30. Each asserted claim of the '702 and '366 Patents is invalid and void for failure to comply with the conditions for patentability specified in Title 35 of the United States Code, including, without limitation, at least Sections 102, 103, and 112.

31. On information and belief, Beneficial failed to comply with the marking and notice requirements of 35 U.S.C. § 287, and Beneficial is, therefore, precluded from seeking any recovery for alleged damages accruing prior to the filing of this action.

32. In light of statements made in the United States Patent & Trademark Office during the prosecution of the applications that led to the '702 and '366 Patents, Beneficial is estopped from construing any of the asserted claims of those patents in such a way as to cover any of The Weather Channel's products or processes.

33. On information and belief, the '702 and '366 Patents are unenforceable due to unreasonable and unexplained delays during their prosecution in the United States Patent & Trademark Office.

34. Beneficial is precluded from seeking any recovery for alleged damages accruing prior to the filing of this action and should be enjoined from enforcing the '706 and/or '366 Patents against The Weather Channel by the equitable doctrine of laches.

## THE WEATHER CHANNEL'S PRAYER FOR RELIEF

Wherefore, defendant The Weather Channel Interactive, Inc. respectfully requests that this Court:

(a) Dismiss the claims of Beneficial against The Weather Channel with prejudice;

(b) Deny Beneficial all relief that it has requested in its Second Amended Complaint;

(c) Deny any permanent injunctive relief in favor of Beneficial and against The Weather Channel;

(d) Declare this to be an exceptional case under 35 U.S.C. § 285;

(f) Award The Weather Channel costs, together with reasonable attorneys' fees and all other expenses for this suit because this case is exceptional; and

(g) Award The Weather Channel such other relief as this Court may deem just and proper.

Dated: September 28, 2007

*__/s/ Michael E. Jones__*
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ATTORNEYS FOR DEFENDANT THE
WEATHER CHANNEL INTERACTIVE, INC.

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on September 28, 2007. Any other counsel of record will be served by First Class mail on this same date.

*/s/ Michael E. Jones*